

09-2506
Order

PLAINTIFFS' DESIGNATION OF STEVEN RAY PEACE

(Counter-Designations in italicized text)

Deposition April 7-8, 2005

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6:11-13					
9:1-4					
10:1-9					
10:23-25					
12:13-15					
183:5-7					
183:9-11					
337:1-14					
338:16-339:9					

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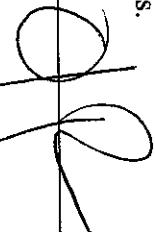
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339:11-17					
339:25-340:9					
95:19-96:10					
Exh. 535					
112:4-12				112:13-14	
				112:16-23	
113:12-13					
113:15-16 (through "and ability")					

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98:5-98:15			
98:16-99:13	Lacks foundation, speculation. Peace testifies to what he "most likely was referring to," showing that he did not actually recall. He further testified that he "probably left the barge," again showing that he was guessing about his actions.	113:16 (beginning with "Like")- 25	There is adequate foundation for this witness' testimony regarding Exhibit 535, a document that this witness wrote. His description of the document is not speculative. The witness does not need to be absolutely certain about the meaning of particular entries, and any modest limitation in his recall would go to the weight, not admissibility of his



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		<p style="text-align: center;"><i>Out of Order.</i></p>		

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101:8-23			101:24-25	
			102:2-10	<p>Same objections as to defendants' designation above regarding the "hypothetical military strike." Lacks foundation, speculation. Peace testifies here, "I think it was only mentioned in a 'what if situation,' showing that he has no real recall of what was suggested.</p> <p><i>fm Newell</i></p> <p>This testimony is essential to understand the testimony designated by plaintiffs at 101:8-23. Plainly, there is adequate foundation for this witness to describe what he meant in the testimony that plaintiffs have designated. There is nothing speculative about his clarification and, to the extent the witness has any modest limitations in his recollection, those limitations go to the weight, not admissibility, of the evidence.</p>

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154:7-13			154:14-17	<p>Same objections as to defendants' designation above regarding the "hypothetical military strike." Lacks foundation, speculation. Here, Peace states, "this was most likely a speculation or a hypothetical situation if military assistance was employed...But that's seven years ago." This testimony shows he has no actual recollection of a supposed "hypothetical situation."</p> <p style="text-align: right;"><i>[Signature]</i></p>

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169:20-170:22				<p>This designation is beyond the scope of plaintiffs' direct designations and bears no relation to plaintiffs' designation at 154:7-13.</p> <p style="text-align: center;"><i>OK</i></p>
177:10-24				
178:2-6				
61:10-17				
256:23-257:3				

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63:4-6					
63:7-13					
63:21-64:2					
64:14-16 (through "Yes")					
65:6-11					
66:9-15					
67:6-8					
67:12-13					
67:21-23					

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68:1-6					
257:23-258:11					
259:21-260:1					

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367:5-9					
260:14-18					
266:13-267:11					
267:13-20					
358:14-17					
358:20-21					
392:3-7					
392:10-14					
392:16-18					
392:21-393:19					

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370:20-371:1	Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.	?? O/R	This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.	
371:5-8	Beyond the scope of plaintiffs' original designations. If this objection is not		This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the	

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371:10-23	Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.	<i>Off</i>	<i>Off</i>	sustained, plaintiffs withdraw the initial designation.	witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.

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			<p>372:19-373:1</p> <p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> <p style="text-align: right;"><i>OR</i></p>	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.</p>

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373:3-13	<p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> <p style="text-align: center;"><i>OK</i></p>	<p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p>	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.</p>	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the</p>

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			<i>N</i> <i>N</i>	<p>sustained, plaintiffs withdraw the initial designation.</p> <p><i>DR</i></p>
389:17-23	<p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> <p><i>N</i> <i>DR</i></p>			<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which</p>

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390:19-391:19
Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.

DR

This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.

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			<p>396:4-7</p> <p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> <p style="text-align: right;"><i>DR</i></p>	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.</p>

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	396:9-10	<p>Beyond the scope of plaintiffs' original designations. If this objection is not sustained, plaintiffs withdraw the initial designation.</p> <p><i>DR</i></p>	<p>This testimony is well within the scope of plaintiffs' direct, which inquires into the details surrounding the witness' experiences during the incident. Plaintiffs' conditional offer to withdraw the initial designation – which presumably refers to plaintiffs' designations of 392:16-18; 392:21-393:19 – misses the point. This testimony is within the scope of the entirety of plaintiffs' direct designations.</p>	